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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/695,139	10/25/2000	Paul D. Marko	40557	3434
7590	12/22/2003		EXAMINER	
Stacey J Longanecker Roylance Abrams Berdo & Goodman LLP 1300 19th Street NW Suite 600 Washington, DC 20036			SOBUTKA, PHILIP	
			ART UNIT	PAPER NUMBER
			2684	
			DATE MAILED: 12/22/2003	

Please find below and/or attached an Office communication concerning this application or proceeding.



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EXAMINER

ART UNIT      PAPER

5

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Commissioner for Patents

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/695,139	MARKO ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Philip J. Sobotka	2684	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-13 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1,2,8,9,12 and 13 is/are rejected.
- 7) Claim(s) 3-7,10 and 11 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 25 October 2000 is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. §§ 119 and 120

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.
- 13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
  - a) The translation of the foreign language provisional application has been received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

#### Attachment(s)

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                           | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ . |
| 2) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)       | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4 . | 6) <input type="checkbox"/> Other: _____ .                                   |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1,2,8,9,12,13 are rejected under 35 U.S.C. 102(e) as being anticipated by Nakatsuyama (US 6,658,062).

Consider claim 8. Nakatsuyama teaches a digital broadcast receiver comprising a memory device for storing content (Nakatsuyama see fig 2 item 68, col 7, lines 18-38, col 7, line 65 – col 8, line 8), the content comprising on demand data files, the on demand data files being portioned into segments interspersed in a broadcast signal ( col 5, line 64 – col 6, line 24), the broadcast signal being provided with at least one header comprising file identification codes to identify each file being transmitted and segment info (Nakatsuyama, col 9, lines 10-45, col 10, lines 25-47), the memory also storing file id codes of selected data (Nakatsuyama see especially col 9, lines 40-45); a reception device for receiving the broadcast signal (Nakatsuyama see especially fig 2, item 56 col 6, lines 50-64) and a processing device connected to the memory device to process the received signal and to store the segments of the selected on demand data files in the memory ((Nakatsuyama see especially fig 1, item 50, col 6, lines 50-64)).

As to claim 1, the apparatus of Nakatsuyama would perform the claimed steps.

As to claims 2,9, note that Nakatsuyama's processor of course would monitor progress storing segment information (Nakatsuyama see especially col 10, lines 15-45).

As to claim 12, note that Nakatsuyama's device is provided with rebroadcast data and automatically receives remaining segments (Nakatsuyama see especially col 9, line 65 – col 10, line 46).

As to claim 13, note that the data comprises time (which would of course indicate a date), and a channel (Nakatsuyama see especially col 13, line 62- col 14, lines 20).

#### ***Allowable Subject Matter***

3. Claims 3-7, 10, 11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Consider claim 3, the nearest prior art as shown in Nakatsuyama fails to teach the method of claim 1 further comprising the step of generating a message via an output device on the recover to indicate when all of the content segments corresponding to the on-demand file are available for retrieval from the memory device for playback.

Consider claim 10, the nearest prior art as shown in Nakatsuyama fails to teach the receiver of claim 8 further comprising an output device connected to the processing device, the device generating an alert message when all of the segments corresponding to one of the sleeted on-demand data files have been received.

***Claim Objections***

4. Claim 3 is objected to because of the following informalities: in line three, there should be an "are" between file and available. Appropriate correction is required.

***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Bottum (US 6,014,569) Ohishi (US 6,487,720) and Wegener et al (US 6,608,994) have been cited to show arrangements for recording selected broadcasts.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip J. Sobutka whose telephone number is 703-305-4825. The examiner can normally be reached on Monday-Friday 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nay Maung can be reached on 703-308-7745. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4700.

Philip Sobutka

Pjs

December 10, 2003

